



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,728	11/12/2003	Oscar del Rio Herrero	033339/271350	7260
826 7590 03/18/2008				
ALSTON & BIRD LLP				
BANK OF AMERICA PLAZA				
101 SOUTH TRYON STREET, SUITE 4000				
CHARLOTTE, NC 28280-4000				
EXAMINER				
KANG, SUK JIN				
ART UNIT		PAPER NUMBER		
2619				
MAIL DATE		DELIVERY MODE		
03/18/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/706,728

Applicant(s)

RIO HERRERO ET AL.

Examiner

SUK JIN KANG

Art Unit

2619

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to because Figures 1-4 need descriptive text labels. For example, SHM should be labeled as "distributor." Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: A reference to the prior application must be included in the first sentence(s) of the specification following the title of this application.

Appropriate correction is required.

Claim Objections

3. **Claims 1 and 9** are objected to because of the following informalities:

- a) On lines 1 of claim 1, insert a transitional phrase --comprising--;
- b) On line 18 of claim 9, replace "the processing chain" with --the processing chains--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. **Claims 1-3 and 5-9** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 9 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph. The claim is narrative in form and

Art Unit: 2619

replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device.

Claim 1 recites the limitation "the N output multiplexes" in lines 3-4 and the limitation "the inputs of M+L selection chains" in line 12. There is insufficient antecedent basis for these limitations in the claim.

Consider claim 1, the text in line 5, "M channels", is ambiguous because it is not clear if it refers to input or output channels. Appropriate clarification is requested.

Consider claim 1, the text in line 9, "N input channels", is ambiguous because it is not clear if it refers to the "M input channels" stated in line 2. Appropriate clarification is requested.

Consider claim 1, the text in lines 31-32, "the corresponding n data packets in the aggregate multiplexed signal..." is still incomplete and lacks any meaning within the scope of the claim. It is unclear what "the corresponding n data packets in the aggregate multiplexed signal" is doing or what is being done to or with "the corresponding n data packets in the aggregate multiplexed signal".

Claim 6 is dependent on a cancelled claim (claim 4). Appropriate correction is requested.

Regarding claims 1 and 9, each of these claims defines both a method and an apparatus. Each claim as a whole is neither a definition of a method nor of an apparatus but is instead a hybrid of the two; it, therefore, does not define the invention

Art Unit: 2619

in the manner contemplated by the second sentence of 35 U.S.C. Sec. 112 (see *In re Oakley*, 1935 C.D. 198, 454 O.G. 536, 73 F.2d 934, 24 USPQ 75).

Claim 9 recites the limitation "the headers" in lines 13 and the limitation "the n output data packets" in lines 21. There is insufficient antecedent basis for these limitations in the claim.

Claims 2, 3, 5, 7, and 8 are rejected based on their dependency on claim 1.

Allowable Subject Matter

6. Claims 1-3 and 5-9 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Response to Arguments

7. Applicant's arguments, filed December 19, 2007, with respect to the rejection(s) of claim(s) 1-9 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, new rejections under 35 U.S.C. 112, 2nd paragraph are made.

Conclusion

8. Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Suk Jin Kang whose telephone number is (571) 270-1771. The examiner can normally be reached on Monday - Friday 8:00-5:00 EST.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Application/Control Number: 10/706,728

Page 7

Art Unit: 2619

/Suk Jin Kang/

Examiner, Art Unit 2619

March 10, 2008

/CHAU T. NGUYEN/

Supervisory Patent Examiner, Art Unit 2619